

**AMENDMENTS TO THE CLAIMS:**

This listing of claims will replace all prior versions and listings of claims in the application:

1. (Currently Amended) A method for determining an indication that an application for a mortgage loan ~~[[may]]~~ will result in a closing, said method comprising:

receiving the application information, ~~such that the application information includes~~ including at least borrower information, property information, and a first interest rate;

receiving home value information, ~~such that the home value information representing~~ represents an estimated value of the property;

receiving a second interest rate; and

determining the indication based on the received application information, received home value information, and received second interest rate, ~~such that the indication representing~~ represents a likelihood that the mortgage loan will close ~~may result in the closing.~~

2. (Currently Amended) The method of claim 1, wherein said receiving the application ~~information~~ further comprises:

receiving a date corresponding to when the mortgage loan application will close ~~may be closed~~ with the first interest rate.

3. (Original) The method of claim 2, further comprising:

using an expiration date for the first interest rate as the date.

4. (Original) The method of claim 2, further comprising:

using a closing date as the date.

5. (Original) The method of claim 4, wherein said receiving the second interest rate further comprises:

using, as the second interest rate, an interest rate corresponding to a date other than the closing date.

6. (Original) The method of claim 1, wherein said receiving home value information further comprises:

receiving estimates of value of comparable properties in a region corresponding to the property.

7. (Original) The method of claim 6, further comprising:

using at least one of a street, a neighborhood, a city, a ZIP code, a zip+4 code, a county, a state, a country, a census tract, or a metropolitan statistical area as the region.

8. (Original) The method of claim 6, wherein said receiving an estimate further comprises:

receiving a median value of properties in a ZIP code for the property.

9. (Original) The method of claim 1, wherein said receiving home value information further comprises:

receiving an estimate of an average value of properties in a region corresponding to the property.

10. (Original) The method of claim 1, wherein said receiving the second interest rate further comprises:

receiving the second interest rate as a current interest rate available for mortgage loans.

11. (Original) The method of claim 1, wherein said determining the indication further comprises:

determining the indication based on a model.

12. (Original) The method of claim 11, wherein said determining further comprises:

determining the model based on a statistical technique.

13. (Original) The method of claim 12, further comprising:  
using a logistic regression as the statistical technique.

14. (Original) The method of claim 1, wherein said determining the indication further comprises:

determining the indication as a score.

15. (Currently Amended) The method of claim 14, wherein said determining the indication further comprises:

scaling the score into a range of score values, such that a low score value within the range of score values corresponds to a high likelihood that the loan will close ~~may result in the closing~~, and a high score value within the range of score values corresponds to a low likelihood that the loan will close ~~may result in the closing~~.

16. (Currently Amended) The method of claim 14, wherein said determining the indication further comprises:

scaling the score into a range of score values, such that a low score value within the range of score values corresponds to a low likelihood that the loan will close ~~may result in the closing~~, and a high score value within the range of score values corresponds to a high likelihood that the loan will close ~~may result in the closing~~.

17. (Currently Amended) A method for processing a mortgage loan application based on a score, said method comprising:

receiving information ~~representative of~~ the mortgage loan application for a property; and

determining the score based on the received mortgage loan application information, ~~such that~~ the score representing ~~represents~~ a likelihood that the mortgage loan application will close ~~may result in a closing~~.

18. (Original) The method of claim 17, further comprising:  
determining scores for one or more mortgage loan applications.

19. (Original) The method of claim 18, further comprising:  
processing the one or more mortgage loan applications, such that at least one of the mortgage loan applications is processed before another mortgage loan application based on the determined score for the at least one mortgage loan application.

20. (Currently Amended) The method of claim 18, further comprising:  
prioritizing the one or more mortgage loan applications based on the determined scores.

21. (Currently Amended) A method for use in performing appraisals on a plurality of ~~one or more~~ properties based on scores, wherein each of the scores indicates whether a mortgage loan application is likely to result in a closing, said method comprising:

receiving a first score for a first ~~property of the one~~ of the or more properties;  
receiving a second score for a second ~~property of the one~~ of the or more properties; and

performing a first appraisal of the first property before a second appraisal of the second property, when the first score indicates a greater likelihood of closing than the second score.

22. (Original) The method of claim 21, further comprising:  
prioritizing the first appraisal before the second appraisal based on the first score.

23. (Currently Amended) A method for use in performing title searches on a plurality of ~~one or more~~ properties based on scores, wherein each of the scores indicates whether a mortgage loan application is likely to result in a closing, said method comprising:

receiving a first score for a first ~~property of the one~~ of the ~~or more~~ properties;  
receiving a second score for a second ~~property of the one~~ of the ~~or more~~ properties; and

performing a first title search of the first property before a second title search of the second property, when the first score indicates a greater likelihood of closing than the second score.

24. (Currently Amended) A system for determining an indication that an application for a mortgage loan ~~[[may]]~~ will result in a closing, said system comprising:

means for receiving an application ~~information, such that the application~~  
~~information includes~~ including at least borrower information, property information, and a  
first interest rate;

means for receiving home value information, ~~such that the home value~~  
~~information represents~~ representing an estimated value of the property;

means for receiving a second interest rate; and

means for determining the indication based on the received application  
information, received home value information, and received second interest rate, ~~such~~  
~~that the indication~~ representing ~~represents~~ a likelihood that the mortgage loan will close  
~~may result in the closing.~~

25. (Currently Amended) A system for processing a mortgage loan  
application based on a score, said system comprising:

means for receiving ~~information representative of~~ the mortgage loan application  
for a property; and

means for determining the score based on the received information, ~~such that the~~  
score representing ~~represents~~ a likelihood that the mortgage loan application will ~~[[may]]~~  
result in a closing.

26. (Currently Amended) A system for performing appraisals on a plurality of  
~~one or more~~ properties based on scores, wherein each of the scores indicates whether  
a mortgage loan application is likely to result in a closing, said system comprising:

means for receiving a first score for a first ~~property of the one~~ of the ~~or more~~ properties;

means for receiving a second score for a second ~~property of the one~~ of the ~~or more~~ properties; and

means for performing a first appraisal of the first property before a second appraisal of the second property, when the first score indicates a greater likelihood of closing than the second score.

27. (Currently Amended) A system for use in performing title searches a plurality of ~~on one or more~~ properties based on scores, wherein each of the scores indicates whether a mortgage loan application is likely to result in a closing, said system comprising:

means for receiving a first score for a first ~~property of the one~~ of the ~~or more~~ properties;

means for receiving a second score for a second ~~property of the one~~ of the ~~or more~~ properties; and

processing means for performing a first title search of the first property before a second title search of the second property, when the first score indicates a greater likelihood of closing than the second score.

28. (Currently Amended) A system comprising:

at least one memory, comprising:



code that receives an application information, ~~such that the~~  
~~application information includes~~ including at least borrower information,  
property information, and a first interest rate;

code that receives home value information, ~~such that the home~~  
~~value information represents~~ representing an estimated value of the  
property;

code that receives a second interest rate; and

code that determines the indication based on the received  
application information, received home value information, and received  
second interest rate, ~~such that the indication~~ representing ~~represents a~~  
likelihood that the mortgage loan will close ~~may result in a closing~~; and  
at least one processor that executes said code.

29. (Currently Amended) A system, comprising:

at least one memory, comprising:

code that receives ~~information representative of~~ the mortgage loan  
application for a property; and

code that determines the score based on the received mortgage  
loan application information, ~~such that the score~~ representing ~~represents a~~  
likelihood that the mortgage loan application will ~~may result in a close~~; and  
at least one processor that executes said code.

30. (Original) A computer program product comprising code, said code comprising:

- code that receives a first score for a first loan;
- code that receives a second score for a second loan; and
- code that performs a first appraisal of the property securing the first loan before a second appraisal of the property securing the second loan, when the first score indicates a greater likelihood of the loan closing than the second score.

31. (Original) A computer program product comprising code, said code comprising:

- code that receives a first score for a first loan;
- code that receives a second score for a second loan; and
- code that performs a first title search of the property securing the first loan before a second title search of the property securing the second loan, when the first score indicates a greater likelihood of the loan closing than the second score.

**REMARKS**

Applicants thank the Examiner for the courtesies extended to Applicants' representative during the interview on April 11, 2008. During that interview, the rejections contained in the Office Action mailed on December 20, 2007, were discussed. The substance of the interview is incorporated into this response.

In the Office Action,<sup>1</sup> the Examiner:

- (a) objected to the drawings;
- (b) provided a Request for Information;
- (c) rejected claims 1, 2, and 16-31 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,940,812 to Tengel et al. ("Tengel");
- (d) rejected claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over Tengel in view of U.S. Patent Application Publication No. 2004/0225594 by Nolan III, et al. ("Nolan");
- (e) rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Tengel in view of Nolan, and further in view of U.S. Patent No. 6,484,153 to Walker et al. ("Walker");
- (f) rejected claims 6 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Tengel in view of U.S. Patent Application Publication No. 2002/0035520 to Weiss ("Weiss");

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of certain art and claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

- (g) rejected claims 7-9 under 35 U.S.C. § 103(a) as being unpatentable over Tengel in view of Weiss, and further in view of U.S. Patent No. 5,995,947 to Fraser et al. ("Fraser");
- (h) rejected claims 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Tengel in view of U.S. Patent No. 6,112,190 to Fletcher et al. ("Fletcher"); and
- (i) rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tengel.

Applicants amend claims 1, 2, 15-17, 20, 21, and 24-29. Claims 1-31 remain pending.

#### **I. Objection to the Drawings**

The Examiner objected to Figs. 7 and 11 for not containing reference numbers. (Office Action at 2). Applicants attach replacement drawing sheets for Figs. 7 and 11 which have been amended to include reference characters "700" and "11000," respectively. Applicants also amend the corresponding portions of the specification to maintain consistency with Figs. 7 and 11. Applicants therefore respectfully request the Examiner to withdraw the objection to the drawings.

#### **II. Requirement for Information**

In the Office Action, the Examiner requested information regarding "the likelihood a loan will close based on a score as at least used in the [Loan Prospector] Software" described in the Article titled Comment: Freddie Makes Risk Management a Top Priority, by Leland C. Brendsel ("Brendsel"). (Office Action at 4). In response and as explained during the interview, Applicants provide the following explanation.

Loan Prospector, described in Brendsel, does not generate a score indicating a likelihood a loan will close. Loan Prospector determines the likelihood that a borrower will perform if they are given a mortgage loan. Loan Prospector provides a decision on loan quality, without consideration of property information, by assuming the appraisal value. Although Loan Prospector may serve as input into calculating an indication of the likelihood that a loan will close, Loan Prospector itself does not perform any such calculation.

In contrast, Applicant's Specification describes a system that may determine the likelihood that a loan application will result in a closed loan. Loan applications may not close for a number of reasons. For example, a borrower may decide they no longer want the loan, may find a lower interest rate through another lender, or the lender may rejected the borrower's application. The likelihood that a loan will close may be determined in part based on whether a borrower has obtained a rate lock (e.g., a guaranteed interest rate for a fixed period of time before closing) and the amount of time between a loan application and closing. Loan Prospector does not consider these variables. By calculating the likelihood of a loan closing, lenders can determine how much money and effort to spend in completing and funding a loan application.

In view of the fundamental differences between the claimed invention and Loan Prospector as revealed in the Brendsel reference, Applicants submit that no additional information is reasonably necessary to properly examine this application or is relevant to a patentability determination. Nevertheless, to ensure that Applicants have fully complied with the Requirement for Information, Applicants attach an Information

Disclosure Statement disclosing materials related to Loan Prospector. The attached materials include:

- (1) Loan Prospector Facts Sheets regarding Loan Prospector (2001-2004).
- (2) A training guide entitled "Getting Started with Loan Prospector Automated Underwriting Service" (2002).
- (3) A training guide entitled "Getting Started with Loan Prospector Automated Underwriting Service" (2003).
- (4) Loan Prospector Automated Underwriting Service (AUS) Training and User Guide (February, 2003).
- (5) Quick Reference Notes for February 2003 Loan Prospector Automated Underwriting System – Training and User Guide (February, 2003).
- (6) A training guide entitled "Getting Started with Loan Prospector Automated Underwriting Service" (2004).
- (7) A training guide entitled "Getting to Yes," which was provided to users of Loan Prospector who attended training offered by Freddie Mac (November 2005).
- (8) Loan Prospector Functionality Guide (April 2008).
- (9) A training guide entitled "Getting to Yes," which was provided to users of Loan Prospector who attended training offered by Freddie Mac (April 2008).

(10) A training guide entitled "Getting Started with Loan Prospector"  
(June 2008).

(11) Loan Prospector Documentation Matrix for documenting use of  
Loan Prospector (June 2008).

Should the Examiner require anything else, the Examiner is requested to notify  
the undersigned.

## **II. Rejection Under 35 U.S.C. § 102(b)**

Applicants respectfully traverse the rejection of claims 1, 13, and 24 under 35  
U.S.C. § 102(e) as being anticipated by Tengel. To properly establish that Tengel  
anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every  
element of each of the claims in issue must be found, either expressly described or  
under principles of inherency, in that single reference. Furthermore, "[t]he identical  
invention must be shown in as complete detail as is contained in the ... claim."

M.P.E.P. § 2131, quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9  
U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Tengel does not disclose each and every element of Applicants' claimed  
invention. Claim 1 recites a "method for determining an indication that an application for  
a mortgage loan will result in a closing, said method comprising: receiving the  
application including at least borrower information, property information, and a first  
interest rate; receiving home value information representing an estimated value of the  
property; receiving a second interest rate; and determining the indication based on the  
received application, received home value information, and received second interest

rate, the indication representing a likelihood that the mortgage loan will close.” Tengel fails to teach or suggest the combination of features recited in claim 1.

Tengel discloses an “apparatus and method for automatically matching a best available loan to a potential borrower via a global telecommunications network.” (Tengel, title). Tengel compares borrower attributes to “loan acceptance criteria stored in the database to determine any available loans for the potential borrower. The database also determines a ranking of best loans among the available loans depending on the respective loan attributes.” (Tengel, col. 2:45-51). The “rankings of best loans are displayed to the potential borrower . . . [and] the potential borrower chooses a selected loan.” (Tengel, col. 9:55-63). After a borrower chooses a loan, “the loan origination system generates a loan application from the borrower attributes.” (Tengel, col. 10:8-11). Tengel therefore presents available loans to a borrower and then submits a loan application once a borrower selects a loan.

Tengel does not teach or suggest determining “an indication that an application for a mortgage loan will result in a closing,”<sup>2</sup> as recited in claim 1. Tengel’s ranking of loans cannot constitute the claimed “indication” because the ranking is created before receiving an application. Indeed, the purpose of Tengel’s ranking is to assist a borrower in identifying which loan to apply for. (Tengel, title, col. 9:55-63). In contrast, claim 1 requires “determining the indication based on the received application, received home value information, and received second interest rate, the indication representing a likelihood that the mortgage loan will close.” Claim 1 is therefore directed to determining “a likelihood that the mortgage loan,” which has already been applied for,

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<sup>2</sup> The Examiner has not clearly identified how Tengel allegedly discloses the claimed indication. (See Office Action at 5).



"will close," not the likelihood that a borrower will apply for a lender's mortgage.

Accordingly, Tengel cannot anticipate claim 1 or claims 2 and 16<sup>3</sup> by reason of dependency therefrom.

Applicants respectfully traverse the rejection of independent claim 17 under § 102(b). Independent claim 17 recites a "method for processing a mortgage loan application based on a score, said method comprising: receiving the mortgage loan application for a property; and determining the score based on the received mortgage loan application, the score representing a likelihood that the mortgage loan application will close." As discussed above, Tengel does not teach or suggest determining an indication that a loan application will close. Similarly, Tengel does not teach or suggest determining a "score" representing "a likelihood that the mortgage loan application will close." Accordingly, Tengel cannot anticipate independent claim 17 or dependent claims 18-20.

Independent claims 21 and 23, although of different scope than claim 17, also require "scores indicat[ing] whether a mortgage loan application is likely to result in a closing," and therefore patentably distinguish from Tengel for at least the reasons discussed above. Moreover, claims 21 and 23 require not only a "first score," but also a "second score," which Tengel also does not teach or suggest. And, claims 21 and 23 require performing an appraisal or title search, respectively, based on the first score and second score. Tengel simply does not teach or suggest using multiple scores to

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<sup>3</sup> The Examiner rejected claim 16 under § 102. However, claim 16 depends from claim 14, which depends from claim 1. Claim 16 therefore includes all of the elements recited by claims 1 and 14. However, the Examiner rejected claim 14 under § 103(a). Accordingly, the Examiner's rejection of claim 16 under § 102 is improper because the Examiner has acknowledged that Tengel does not teach or suggest each and every element recited by claim 14 and required by claim 16.

determine which appraisal or title search to perform first. Accordingly, Tengel does not anticipate independent claims 21 and 23 or dependent claim 22.

Independent claims 24-31, although of different scope than independent claims 1, 17, 21, and 23, patentably distinguish from Tengel for at least the reasons discussed above. Applicants therefore respectfully request the Examiner to withdraw the rejection of claims 1, 2, and 16-31 under 35 U.S.C. § 102(b) as being anticipated by Tengel.

### **III. Rejections under § 103(a)**

Applicants respectfully traverse the rejections of dependent claims 3-15 under 35 U.S.C. § 103(a). A *prima facie* case of obviousness has not been established at least because the differences between the prior art and Applicants' claims are such that it would not have been obvious for one of ordinary skill in the art at the time of the invention to modify the prior art to arrive at Applicants' claimed invention.

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements."

M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." M.P.E.P. § 2143.01(III) (emphasis in original). "All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03. "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences

themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. M.P.E.P. § 2141.02(I) (emphases in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Claims 3-15 depend from independent claim 1 and therefore include all of the elements recited by claim 1. None of Nolan, Walker, Weiss, Fraser, and Fletcher, taken individually or in combination, cure the deficiencies of Tengel discussed above. That is, none of the cited references teach or suggest determining the claimed “indication,” as required by claim 1.

In view of the mischaracterization of the Tengel reference, above, the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the invention of dependent claims 3-15. Thus, the Examiner has failed to clearly articulate a reason why claims 3-15 would have been obvious to one of ordinary skill in the art in view of the prior art. Accordingly, a *prima facie* case of obviousness has not been established with respect to claims 3-15 and the rejections under 35 U.S.C. § 103(a) must be withdrawn.

#### IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims. Should the Examiner continue to dispute the patentability of the claims after consideration of this Reply, Applicants encourage the Examiner to contact Applicants' undersigned representative by telephone to discuss any remaining issues or to resolve any misunderstandings.

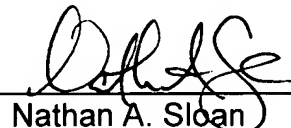
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 20, 2008

By: \_\_\_\_\_

  
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